IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION.

CRIMINAL APPEAL NO.1415 OF 2003.

The State of Maharashtra : Appellant.

versus

Smt.Asha Shankar Bhavsar & ors. : Respondents.

Mr.A.M.Shringarpure, APP, for the State.

CORAM : D.G.DESHPANDE,J.

DATED : 2nd September 2004.

ORAL ORDER

1. Heard Mr.Shringarpure the learned APP, for the State. This is an appeal filed by the State against acquittal of the accused under Sections 143, 147, 232 r/w 34 and under Section 354 r/w 34 of the Indian Penal Code and under Sect 3(i)(x) of the Scheduled Cast and Scheduled Tribes (Prevention of Atrocities Act), 1989.

2. The incident took place on 20/02/1997.

Complainant Ramesh Jamsing Pawar was the chairman of Raghuveer Balvidya Prasarak Mandal, Malegaon Camp. A meeting of all the employees of the said Mandal was called on that day. Chairman Pawar and other employees including clerk Avasthi and witness Shevantabai arrived at the gate. A quarrel took place on the gate of the premises between the accused and the complainant and the complainant and the persons accompanying him were obstructed. The accused were alleged to have given abuses to the chairman and insulted him. He, therefore, immediately lodged a report to Chavani Police Station. Offence was registered and the spot panchanama was prepared. On 25/02/1997 PW-2 Shevantabai Shirsath submitted an application to the police contending that she was insulted by the accused with reference to her caste and her modesty was outraged by the accused.

3. The case of the prosecution in this regard was disbelieved by the Court firstly on the ground that when the complainant chairman Pawar filed his complaint, there is no mention of any incident about outraging modesty of Shevantabai by the accused or incident of

insulting her with reference to her caste. Secondly, the Court found that the report of Shevantabai did not inspire confidence. She has stated that the said application was in hand-writing. But the report was not in hand-writing but it was actually typed. The thumb impression on the report was that of Shevantabai Daga Khairnar whereas her name in the report and before the court was Shevantabai Daga Shirsath. It might be that Shevantabai Daga Khairnar was the name of the P.W.2 before her marriage but no proof was adduced to connect these two names by Shevantabai.

4. Shevantabai (PW.2) also produced her caste certificate. But that caste certificate also stands in the name of Shantabai Bhima Jadhav. But there is no evidence to show that name of PW 2 prior to her marriage was Shantabai Bhima Jadhav. PW 1 Medical Officer had examined Shevantabai on 27/2/1997 when the incident has actually taken place on 20/2/1997 and in that report Shevantabai has given history of assault at 8-00 a.m. on that day i.e. on 27/2/1997. Therefore, the court rightly held that those injuries could not be the injuries allegedly

sustained by her on 20/2/1997. In these circumstances the trial Court acquitted the accused. The judgment is not perverse. The Court has also taken into consideration the disputes between the Mandal and other members of the school committee. Therefore, no interference is called for. Appeal is dismissed.

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